

P 22E

App F IX 4

Previous References

119-41 (87, 251, 253, 254)

1948-49
(ML)

File No 86-48

Serial Nos 64, 6

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos ~

Part B for March '49

SUBJECT

Revision of octroi duty leviable leviable on coconuts
and alterations to be effected in the octroi Byelan
in Bowringpet Municipality.

To The D C, Kolar Dt

No L 10223/D 15-3-49

Rejects the proposal

[Signature]

6/51
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Let no AS LB 365/45-46 by 8 4-48 from the Dy Commr, Kolar St., requesting sanction to revise the levy of octroi duty on accounts in the Bowringpet Town mdf from Rs 0-8-4 per 100 to annas Two per 100 subject to the condition of not allowing refund on exports made within 3 months + to alter the Octroi Byelaws of the mdf suitably—

1) At present Octroi duty is levied at the rate of one pie per Cocoanut in the mdf. Provision is also made in the Byelaws for the grant of refund of octroi duty on the article if it is exported from the mdf limits within a period of 3 months.

2) The present proposal is ⁽¹⁾ to reduce the rate of levy of octroi duty on the Cocoanuts from annas eight and pies four per hundred (at 100 per Cocoanut) to annas ~~two~~ Two per hundred, (2) to abolish the payment of refunds on Cocoanuts exported from the mdf limits + (3) to alter the existing byelaws.

3) The rate of levy of octroi now proposed is much below the rate ($\frac{1}{4}$ of the existing rate) prescribed in the Schedule II attached to the Mysore Town Metrics Act 1933.

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PM

4) The income now derived according to the present levy is stated to be Rs 1000 p a & that the income that would be derived after the proposed reduced levy is stated to be Rs 4000/-

5) It is stated that no objections have been received in response to the notification issued in this behalf.

6) If appd, the Law Section will be requested to state if the abolition of the clause in the rules relating to the payments of refunds would be in order.

U/S

21/4

7) Subd for orders

8) For kindly stating whether the amendments to the bye-laws proposed - Flag "R" are unobjectionable from the legal point of view

of New

Asst. Secretary,
Legislative Br)

Pz 21/4/48

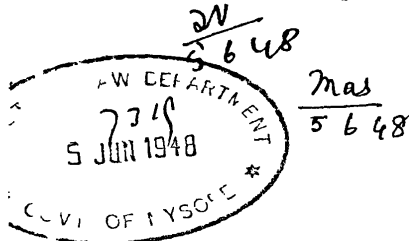
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9) The proposed bye laws may first be scrutinised by the administrative sectt and then sent up for the Regulation Section in a readable form for instance, the proposed R bye law No 5 is not in a readable form and its intention is not clear

Revision of octroi Byelaws of Bowring
Town Municipality
~~5/11/48~~ 6/5/48

- 10) ~~that~~ The draft Bye-Law No 22 proposes to grant refund in respect of 'cloths' only, whereas the existing bye-law ^{provides for} ~~proposes~~ to grant refund in respect of all cloths. Whether this is administratively acceptable may be examined by the administrative section and then the file sent to this Branch to see whether ^{the rules are} ~~it is~~ intra vires and in legal form.



Said Secy

Mar 6/6

11) 8/6
8/6

Mar 2/6

11(a)
Asst Secy
L S G

- 12) Subd Necessary changes have been suggested in regard to Byelaws nos 5, 22 & 31.

The refund of octroi duty on cloths exported may perhaps be accepted as noted in Byelaw no 22

11/6
15/6
18/6
16/6

- 13) Pl put up a soft letter to the D.C. Kumbhari asking for a certificate and explaining about above

17/6/48

6151-V 1872
 Letter of the Borompet Townmelf
 14) sent with a draft letter for approval
 1976 P. 19 cur

15) 1964

To the Dy Commr, Kolar DC

NO P. 17993 of 22-6-48

Chall for revised Byelaws

1976 P. 19 cur

Letter NO AS-LB 3651 45-46 of 30-8-48 from
 the Dy Commr, Kolar DC, forwarding a copy
 of the revised Byelaws relating to the levy
 of octroi duty on coconuts in the Borompet
 Townmelf

*) subd for perusal The revised Byelaws
 now received is flagged "E" as

1) It is for orders of the Byelaws now received
 may be sent to the Law section

18) Pl put up with a copy of the
 Byelaws received

19) The amendments proposed
 are only in respect of Byelaws no
 5222 of the district Byelaws, 1964
 not to allow refund of government hand on
 coconuts due to allow deposit of

0/51
 10-72
 1892
 L.

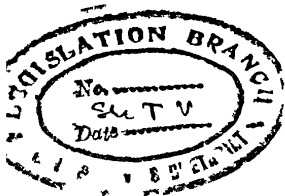
2031
 RL
 5
 Cocoanuts in the Dunder Lanchans
 the existing bylaws regarding the
 refund of octon paid in respect
 cloths with LHO good and change
 is required therefor

24) The bylaws via Hap E are
 sanctioned & corrected where
 necessary the minimum of 45

Legislative Dept is required in
 respect of the amendments proposed

in Bylaws no 5222
 21) In favour of am. - refer
 paras 9 to 11 (as super-

Am. required for
 Legal Br - 27/11/48
 30/4



24) Section 48(1)(K) of the Hyderabad
 Municipalities Act, 1933, provides
 for the framing of octon By-law
 under by laws, among other things,

State Bye-Laws of Bowringpet Town Municipality

may provide for the grant of refunds of octroi duty. The relevant portion in clause (K) which deals with refund runs as follows

Regulating subject to any general or special orders which the Government may make in this behalf, the system under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipality."

23) These words make it clear that the scope of the by-laws is limited for ~~granting~~^{only} refund and it is doubtful whether they cover cases wherein refund may be refused in respect

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Order By-laws of Bowringpet Town
Municipality

of any article or articles it seems that
any such exemption from refund can
only be made under the general or
special orders of the Govt

24) It is not known whether the
By-laws of any other municipality
provide for exemption from the grant
of refund If approved the adminis-
trative section will be requested to put
up a copy of any such precedent
for reference

24
20/12/48

being done

25 For favour of kindly causing A

MK
26/12

Asst Secy
(S S G W C)

MV KK

26/12/48

46)

Order There are no by-laws in any of the mlties
providing for exemption from the grant of refund

1/1/49
28/12

A copy of No A M is also put up as directed by
the Asst Secy in person
Page 48

27) Rules relating to the grant
of refunds under municipal

1872/2

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RL

Funds are contained - in
para 8 & in chapt of the
Municipal Account Manual 1872 not
up herewith

28) The rules from 134 to 152 relate
to the refunds of action

refunds
in bylaws 22
of the 1872 bylaws
in such

The example for payment of refund of
action levied on cocoanuts falls
under rule 134. The Sanitary
are competent to sanction such
refunds by virtue of the bylaws
framed under see 4 & (1) (a) of
the Sanitary Act 1833. The

bylaw is therefore in order
(29) Refce paras 24 & 25 supra

Attest leg. wry An
Legislation Branch
12/1/45
MAY

Draft Bye-Laws framed by the Bowringpet
Town Municipality for revising octroi ^{duty} ~~Byelaws~~

30) The remarks of the administrative section at paras 26, to 28 of the notes supra do not meet the point at issue, namely, whether refund of octroi can be denied in the circumstances in which refunds are normally permissible under the provisions of the Act

31) According to section 61 (IV) of the Mysore Town Municipalities Act, 1933, a municipal Council may levy an octroi on animals or goods or of both brought within the octroi limits for consumption or use thereon under section 48(4)(K) of the Act, octroi byelaws may be framed for regulating the system under which refund are to be made. Such byelaws may prescribe a period of limitation after which no

10
Draft Bye-Laws framed by the Bown-
pet Town Municipality for the revision
of octroi duty

claim for refund of octroi
shall be entertained, and
the minimum amount
for which any claim to re-
fund may be made,

32) From these provisions
it follows that a refund
cannot be denied in cases
of application within the
prescribed period in respect
of articles not liable for
payment of octroi by virtue
of the fact that they are not
intended for consumption
or use within the municipality

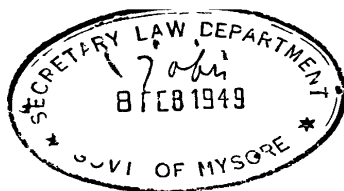
33) In this view bye-laws 5
and 22 do not seem to be
in order.

²¹¹
8249 34) Since under section 61, a municipal
council can levy octroi only on animals and
goods brought within the octroi limits for
consumption or use therein, it follows that
no octroi can be levied if the animals and
goods

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RL

brought are not for consumption and use within the ~~own~~ octroi limits. As there may be practical difficulties in distinguishing the goods and animals meant for consumption or use from those not ~~or~~ meant for that purpose, ^{it seems that} octroi will be collected on all animals and goods brought within the octroi limits, provision being made for the refund of the amount collected in cases where the goods ~~are~~ and animals ^{or not used within the octroi limits} are exported outside ~~the~~ Section 48(V) (N) empowers the municipal Council to make bye-laws for regulating the system of refunds in such cases.

35) It appears therefore that a refund ^{or animals} cannot be denied in respect of goods ^{not} liable for the levy of octroi if the procedure ~~prescribed~~ and the conditions prescribed for the refund are satisfied. The proposal to levy ^{octroi} without provision for refunds, in respect of coconuts brought within Bowringpet Municipality is not therefore legally in order.



Mas
8 2 49

Saw Singh

36) The proposed amendments to clause 5 and 22 of the byelaws of the Bowringpet Town municipality - would be ultra vires under Sec 61 IV an octroi duty on animals.

mini for Law)

De 1072

Rev Seery

38) subd If appr, the above opinion will be communicated to the Pdt, Town meet, Bowringpet, through the Dy Commr, Kolar Sh.

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sent seg to 15 rmy

Yes the 12/10/19

1872 D/t letter for
17/2/49

subd with a draft letter for appl

1872 18/2/49

Number for
L. S.) for
21/2/49

Paul segon
separate at
myself for
21/2/49

Re
27/2/49

OFFICE OF THE MINISTER FOR LOCAL SELF-GOVERNMENT No 4171 D. c 22/2/49	22/2/49 H/S
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22/2/49

Stone
27/2/49

To the Dy Commr, Kol'ar Dt
no L 10223 27/2/49

22/3

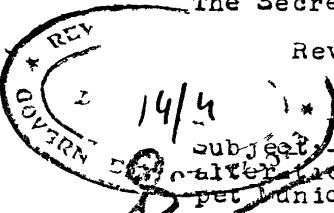
~~Does not~~ Passes orders
in the matter negating the proposal



To

The Secretary to Government

Revenue Department, Bangalore



Subject: Revision of octroi duty leviable on coconuts and alterations to be effected in the octroi Byelaws in Bowringpet Municipality

Sir,

I have the honour to state that the existing octroi Byelaws in Bowringpet town were sanctioned by Government in their order 10 L 60-23-41/M 119-41-254 dated 13/12/43 and according to the sanctioned Byelaws, octroi at the rates of 0/0/1 per coconut is leviable for the coconuts actually consumed in the Municipal area, Provision being made for the refund of octroi in cases where the articles imported are subsequently exported within a period of three months. Bowringpet town is a commercial centre and there are many big coconut merchants. It is reported by the President that annually not less than 35 thousand bags containing 100 coconuts each are being imported to the Town but the merchants are evading payment of octroi on the entire consignments by immediately exporting the coconuts received by them either by rail or by road to their godowns maintained in villages outside the Municipal limits of Bowringpet Town. The average octroi realisations at the existing rates of 0/8/4 per 100 for the last three years is noted in the margin. These merchants represented to the council that

1944-45	Rs 1064/11/9
1945-46	R 1081/ 8/4
1946-47	Rs 925/14/1

they are prepared to pay octroi on the entire quantity received by them within the municipal

limits provided the rate of levy per 100 is reduced from 0/8/4 to 0/2/0 without claiming any refund even in the case exports within three months

In pursuance of this request of the merchantile community, the Municipal Council discussed the question of reduction of octroi on coconuts and revising the byelaws suitably at their meeting held on 30/10/46. They have resolved that the rates be reduced to annas two per hundred and the byelaws amended making no provision for refunds. In addition, the Municipal Council felt that adequate provision has

has not been made in the sanctioned byelaws for checking smuggling of dutiable articles into the Town and that therefore the amendment of the byelaws in force was found absolutely necessary. They accordingly, issued a notification as required by rules on 10/4/47 calling for objections to the proposed reduction of octroi on coconuts and to the amended draft byelaws. As no objections were received on the proposed revision the Council at their meeting held on 4/6/47 resolved that the draft byelaws may be submitted for sanction of Government.

The President having found that the octroi collections would be improved by the proposed revision of byelaws with effect from 1/1/47, has commenced to collect at the revised rates after obtaining a stamped mutchalika from the Coconut Merchants agreeing to pay tax at the revised rate. The mutchalika is enclosed in the records. It was observed by me that the levy should not have been given effect to without obtaining sanction of Government to the revised levy and the collection at the revised rate may be stopped, till the sanction of Government was received. Meanwhile, a petition presented by some of the residents of Bowringpet Town to the Minister for Local Boards on 19th January 1948 alleging that the octroi duty has been reduced with a view to help the rich merchants and praying for investigation was received in the office on 29th January 48. The President Municipal Council, Bowringpet was requested to report on the points raised in the petition. The President in his letter dated 26/3/48 reports that the levy at the reduced rates has been suspended from 16/3/48, that the Council at their meeting held on 21/3/48 have again resolved that the proposal may be sanctioned as it augments the finances of the Municipality and that the allegations made in the petition referred to are frivolous and on the out come of party feelings in the town. It is also stated that the signatories to the petition are not bonafide merchants.

I have examined the proposal of the Council and see that the reduction in the levy of octroi would be more profitable to the Council than the present levy as the revision of the tax would bring in an income of Rs 4000/- on an average annually as against Rs 1000/- now realised. The other amendments are also reasonable. I therefore request you kindly to obtain sanction of Government to the resolution of the Council dated 21/3/48 and also to the amended draft byelaws.

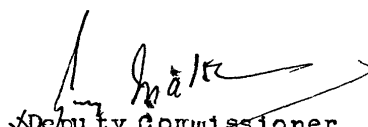
I have the honour to be,
SIR,
Your obedient servant

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Council dated 21/3/48 and also to the amended draft byelaws.

I have the honour to be,
sir,
your most obedient servant,

A J W


Deputy Commissioner,
Kolar District
~~Assistant Commissioner~~

L 17993/R⁴

To The Dy Commr, Kolar Dt, 22-6-45

Sir,

With reference to your letter no AS R B
S/45-46 D, 8-4-48 requesting sanction to
reverse the levy of octroi duty on coconuts
in the Poorurupat Town mld, I am directed to
point out that the proposed byelaws ^{as enclosed} ~~to be sent~~
~~to you~~ ^{is not in a} ~~to be sent~~ have been scrutinised in
your office. For instance ~~the proposed byelaw~~
no 5 is not in a readable form & its
intention is not clear. I am therefore to
~~request you to have the proposed byelaws~~
~~scrutinised in your office & to send them~~
~~to you in a readable form.~~

I am also to add that Byelaw no 22
proposes to grant refund in respect of "cloths"
only; whereas the existing byelaw provides for
the grant of refund in respect of all cases
Whether this ^{is acceptable} ~~is acceptable~~

may be ^{kindly} examined & initiated

~~In the light of the facts stated above, I am~~
~~desirous to request you to forward a corrected~~
fair copy of the ^{may be sent} ~~Pygelaw~~ for the consideration of
Govt. The records accompanying
and arranged over the ~~to the~~
Ind in ~~the~~ further ~~part~~ of the ~~document~~
I have etc

Yours

for my to look

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1964

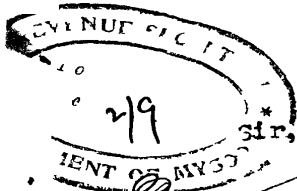
ms PB-48-64

A5.I B.365/45-46
enc byelaws & one etc

Office of the Deputy Commissioner,
Kolar District,
Kolar dated the 30th August 1948



TO



The Secretary to Government
of Mysore Revenue Department,
Bangalore

ms
ms KHS
2/9/48

With reference to your letter No L 17993 dated 29/6/48 calling for revised byelaws regarding the levy of octroi duty on coconuts in Bowringpet Town Municipality, I have the honour to forward herewith a copy of the byelaws making necessary amendment to Byelaw Nos 5, 22. The byelaws have also been arranged in chronological order as required by you & request you kindly to - - obtain early sanction of Government for the revision of octroi byelaws as the proposed revision augment the finances of the Municipality. By giving effect to this amendment, it is expected that the income will be increased by about Rs 4000/- per year from octroi income. I examined this question during my inspection of the Municipal Office on 29/6/48. I also consulted the Municipal Councillors. I think that the amendment to byelaws is necessary.

I have the honour to be,
Sir,
your most obedient servant,

M. Subramanian
Deputy Commissioner,
Kolar District
(BY TOWN)

MS

L 60223^{1st} 2 Cps
15/3/49

7

To The Dy Commr, Kolar Dt,
Mk 80-48-66

Sir,

With reference to the Correspondence ending with your letter no AS LB 365/45-46 & 30-8 48 requesting sanction to the Proposals (1) to reduce the rate of ~~levy~~ of octroi duty levied on the Cocoanuts (2) to abolish the payment of refunds on Cocoanuts exported from the ml limits & to alter the existing Pagelaws in the Boronungbet Town mdy, I am directed to state that the proposed amendments to clauses 5 & 22 of the Pagelaws would be ultra vires under Section 61(1b) ^{of the 1st Act} an octroi duty on animals or goods, ^{or} both brought within the octroi limits for consumption or use therein can be imposed by the mdy. But in respect of the octroi duty collected

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on goods and animals which are brought within the octon limits but not within the ml area, consumed or made use of therein, but are exported outside the ml limits, under the scheme of the Act, refunds are to be granted. Provisions in this behalf are contemplated to be made under Section 48(4). I am therefore to state that ^{as} the proposal ^{to} levy octon without ^{the} provision for refunds in such cases would be ultra vires, the proposal cannot be sanctioned.

The records accompany

Yours faithfully
for

for G. L. Sengupta
11/12/49

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No

h 10223 /W

General and Revenue Secretariat,

Dated Bangalore, 15- 3

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FROM

*The Secretary to the Government of
His Highness the Maharaja of Mysore
General Department.*

To

The Deputy Commissioner,
Kolar District.

Sir,
SIR,

With reference to the correspondence ending with your letter No. A5.LB.365/45-46 dated 30-8-48 requesting sanction to the proposals (1) to reduce the rate of octroi duty levied on the cocoanuts (2) to abolish the payment of refunds on cocoanuts exported from the municipal limits, and (3) to alter accordingly the existing bye-laws in the Bowringpet Town Municipality, I am directed to state that the proposed amendments to clauses 5 and 22 of the byelaws would be ultra vires. Under Section 61(iv) of the Town Municipalities Act an octroi duty on animals or goods or both brought ~~within~~ within the octroi limits for consumption or use therein can be imposed by the municipality. But in respect of the octroi duty collected on goods and animals which are brought within the octroi limits but not within the municipal area, consumed or made use of therein, but are exported outside the municipal limits, refunds are to be granted under the scheme of the Act, provisions in this behalf are contemplated to be made under Section 48(k). I am therefore to state that as the proposal to levy octroi without provisions for refunds in such cases would be ultra vires, the ^{same} proposal cannot be sanctioned.

The records accompany.

Yours faithfully,



For Secretary to Government,
General Department.

